

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THE CITY OF BLAINE, *et al.*, ) No. C03-0813L  
Plaintiffs, )  
v. ) ORDER GRANTING PLAINTIFFS'  
GOLDER ASSOCIATES, INC., *et al.*, ) MOTION IN LIMINE REGARDING  
Defendants. ) DUTIES OWED TO GOVERNMENT  
ENTITIES

This matter comes before the Court on “Plaintiffs’ Motion in Limine Regarding Defendants’ Legal Contention in the Pretrial Order that the City of Blaine Owed a Duty of Care to the United States Department of Agriculture of the State of Washington.” Dkt. # 330.<sup>1</sup> Defendants argue that evidence tending to show that the City breached a duty of care owed to government entities “is relevant to the question of comparative fault and is therefore admissible.” Response at 2 (Dkt. # 367).

In prior orders, the Court noted that whether plaintiffs owed a duty to the Lummi Nation, Larry Freeman, or L. Freeman and Sons Construction may be relevant to the calculation

<sup>1</sup> This matter can be decided on the papers submitted by the parties. Plaintiffs' request for oral argument is DENIED.

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1 of damages in this case. If, for example, the City's settlement payment to the Lummi Nation  
2 resolved a breach of a duty it owed to the Tribe, as opposed to a breach of a duty defendants  
3 owed to the Tribe, defendants may not be liable for those payments. It is not clear, however,  
4 how the City's potential negligence toward the United States Department of Agriculture  
5 ("USDA") or the State of Washington would be relevant to this case. Defendants suggest that  
6 the City's failure to fulfill duties owed to these entities supports their theory that the City "cut  
7 corners" at the Semiahmoo site. Not every instance of the City's negligence is relevant to this  
8 case and defendants make no effort to explain the nature of the alleged duty owed to these  
9 entities or to link the alleged negligence and the liabilities or damages at issue in this litigation.  
10 Even if the Court were to assume that the City was negligent toward the USDA and/or the State,  
11 it does not necessarily follow, and defendants have not shown, that such negligence would affect  
12 the allocation of liability or damages as between the City and defendants. In addition, any  
13 marginal relevance the City's alleged negligence toward third-parties may have is substantially  
14 outweighed by the confusion, waste, and delay that would arise were these issues put to the jury.

15  
16 For all of the foregoing reasons, plaintiffs' motion to exclude evidence and  
17 argument regarding the City's alleged negligence toward the USDA and/or the State of  
18 Washington is GRANTED.

19  
20 DATED this 12th day of May, 2006.

21  
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23 Robert S. Lasnik  
24 United States District Judge

25  
26 ORDER GRANTING PLAINTIFFS'  
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